

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: ANDERSON, ANGIE

Chapter 7
BKY CASE NO. 04-31600

Debtor.

**NOTICE OF HEARING AND MOTION
FOR TURNOVER OF PROPERTY AND
INFORMATION OF THE ESTATE**

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR AND HER ATTORNEY
AND OTHER PARTIES IN INTEREST SPECIFIED IN LOCAL RULE 9013-3:

1. Patti J. Sullivan, Trustee of the bankruptcy estate of the above-named debtor moves the court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 10:00 A.M. on November 3, 2004 in Courtroom No. 228A, at the United States Court House, 316 N Robert St., St. Paul, Minnesota 55101.
3. Any response to this motion must be filed and delivered not later than 10:00 A.M. on October 29, 2004, which is three days before the time set for the hearing (excluding intermediate Saturdays, Sundays and legal holidays), or filed and served by mail not later than October 25, 2004, which is seven days before the time set for the hearing (excluding intermediate Saturdays, Sundays and legal holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rules 4002 and 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on March 17, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 521, 541, 542(a) and 704 and Bankruptcy Rule 9013 and Local Rule 6072-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. The Chapter 7 Trustee requests turnover of property of the estate, and certain documents and information in order to properly administer the bankruptcy estate.

6. By correspondence dated April 29, 2004, June 8, 2004, and September 15, 2004 attached hereto and incorporated herewith as Exhibit “A”, the Trustee required turnover of property of the estate and information necessary to complete case administration. Despite written requests to the debtor’s attorney to surrender property or its value, the debtor has failed to surrender and continue to withhold the following information: (1) Wells Fargo Bank statements for the time period covering 12/17/04 through 3/17/04 along with a check for the funds on deposit on March 17, 2004 (*Trustee meant to ask for the statements covering 12/17/03 through 3/17/04*); (2) A copy of 2003 Minnesota property tax return or written confirmation that the debtor is not eligible for a 2003 Minnesota property tax refund; (3) Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004; (4) IRA statement showing the balance on 3/17/04 along with turning over the funds in the IRA account; and (5) Copies of 2003 Federal and State tax returns.

7. The debtor is required to surrender all property of the estate to the Trustee under 11 U.S.C. §521 (3) and (4).

8. Because the debtor failed to provide the requested information the Trustee has been unable to account for and administer all assets of the bankruptcy estate as required by 11 U.S.C. §704.

9. In order to ensure that the debtor complies with any order issued by the Court as a result of this motion in a timely manner, the Trustee requests that the order be specifically made applicable to revocation of the discharge under 11 U.S.C. §727 (a)(6)(A) to allow the Trustee to pursue revocation under §727(d)(3) should the debtor not promptly comply with its provisions.

10. This verified motion is based upon all of the files and records herein.

11. Pursuant to Local Rule 9013-2, a separate Memorandum of Facts and Law is submitted with this motion.

12. The Trustee requests the court to award her \$500.00 for attorney's fees incurred in bringing on this motion.

WHEREFORE, The undersigned requests an order of the Court:

1. Directing the debtor to turnover to the Trustee the following information: (1) Wells Fargo Bank statements for the time period covering 12/17/03 through 3/17/04 along with a check for the funds on deposit on March 17, 2004; (2) A copy of 2003 Minnesota property tax return or written confirmation that the debtor is not eligible for a 2003 Minnesota property tax refund; (3) Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004; (4) IRA statement showing the balance on 3/17/04 along with turning over the funds in the IRA account; and (5) Copies of 2003 Federal and State tax returns; and (6) \$500.00 in legal fees and costs and disbursements incurred in bringing on this motion within ten (10) days of the entry of an Order granting the trustee's motion.
2. Directing that the failure to comply with the Order of the Court requiring a turnover and an accounting as provided for herein be grounds for revocation of discharge under 11 U.S.C. §727(a)(6)(A).

3. For such other relief as the Court deems just and equitable.

Dated this 13th day of October, 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan

Trustee in Bankruptcy

Attorney ID No. 170124

P.O. Box 16406

St. Paul, MN 55116

(651) 699-4825

VERIFICATION

I, Patti J. Sullivan, Chapter 7 Trustee, the moving party, named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on October 13, 2004.

Signed: /e/ Patti J. Sullivan

Patti J. Sullivan, Trustee

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

April 29, 2004

David Gronbeck, Esq.
Law Offices of David Gronbeck
120 South Sixth Street
Suite 1100
Minneapolis, MN 55402

Re: ANDERSON, ANGIE
Bankruptcy No. 04-31600

Dear Mr. Gronbeck:

This is a follow-up to my request at the 341 meeting of creditors held on April 23, 2004 that you provide me with the following:

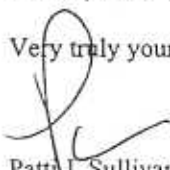
1. Bank statements for time period covering 03/17/04;
2. Pay stubs for time period covering 03/17/04;
3. 2003 Federal and State Income Tax Returns; and
4. IRA statement showing balance on or about 3/17/04.

I would appreciate a response to this letter within ten (10) days of today's date.

All of the documents the debtor turns over are property of the bankruptcy trustee. They will not be returned to the debtor. They will be destroyed two years after the debtor's bankruptcy case is closed unless the debtor makes prior arrangements to pick them up from the trustee's office. Be sure to make copies of any documents the debtor requires before the debtor turns them over to me.

Thank you for your consideration in this matter.

Very truly yours,


Patti J. Sullivan
Trustee in Bankruptcy

PJS:lde

cc: Angie Anderson
4405 Braddock Trail
Eagan, MN 55123-1929

EXHIBIT

"A"

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

June 8, 2004

David Gronbeck, Esq.
Law Offices of David Gronbeck
120 South Sixth Street
Suite 1100
Minneapolis, MN 55402

Ms. Angie Anderson
4405 Braddock Trail
Eagan, MN 55123

Re: Angie Anderson
Bankruptcy No. 04-31600

Dear Mr. Gronbeck and Ms. Anderson:

I enclose and serve upon you by U.S. Mail a copy of the Court's order dated June 3, 2004 regarding the IRA. Please have the debtor submit a check made payable to Patti J. Sullivan, Trustee, as and for the non-exempt IRA and funds in deposit as set forth below. In addition, please have the debtor note the bankruptcy number on the check.

1. Wells Fargo bank account	\$200.00 (estimated)
2. IRA at Wells Fargo	\$2,000.00
Total	\$2,200.00

Please provide to me the above and the following information within ten (10) days from the date of this letter:

1. Copies of the Wells Fargo bank statement showing the amount of funds in the checking account on the date of filing;
2. Copies of 2003 federal and state tax returns along with any and all attachments; and,
3. Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004.

Please have the debtor include the amount of funds in the checking account as of March 17, 2004 in the check made payable to me.

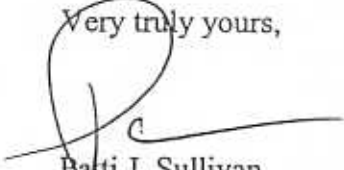
EXHIBIT

" A "

Mr. Gronbeck, I am enclosing Stipulations relating to the 2004 income tax refunds. Please have the debtor execute all copies and return them to me as soon as possible. The debtor should note that the State of Minnesota will send the refunds directly to me; however, the Internal Revenue Service may send the federal refunds to the debtor. Please remind the debtor that as soon as she receives the 2004 income tax refunds, she must forward them to me, as Trustee. In addition, I hereby request that the debtor provide to me copies of her state and federal income tax returns, as soon as they are filed.

If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,



Patti J. Sullivan
Trustee in Bankruptcy

PJS:jk

Encl.

EXHIBIT

"A"

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

September 15, 2004

David Gronbeck, Esq.
Law Offices of David Gronbeck
120 S Sixth St, Ste 1100
Minneapolis, MN 55402

Re: Angie Anderson
Bankruptcy No. 04-31600

Dear Mr. Gronbeck:

I have not received any response from you regarding my letters dated April 29, 2004 and June 8, 2004, copies enclosed. In order to calculate and administer the non-exempt property owed to the bankruptcy estate, I need the following information:

1. Wells Fargo Bank statements for the time period covering 12/17/04 through 3/17/04 along with a check for the funds on deposit on March 17, 2004;
2. Paycheck stubs for time period covering 3/17/04;
3. Copy of 2003 Minnesota property tax return or written confirmation that the debtor is not eligible for a 2003 Minnesota property tax refund;
4. Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004;
5. IRA statement showing the balance on 3/17/04 along with turning over the funds in the IRA account (enclosed is a copy of Judge O'Brien's Order sustaining the Trustee's Objection);
6. Executed tax Stipulations sent previously; and,
7. Copies of 2003 Federal and State tax returns.

I would appreciate a response to this letter within ten (10) days of today's date. If I do not receive the requested information within ten (10) days, I will have to apply to the Court for an order directing your client to turnover the information and property, which, if not complied with, could lead to a revocation of your client's discharge in bankruptcy. If your client's discharge is revoked, all of the debts listed in his bankruptcy schedules will be due and owing again. I will also be requesting attorney fees in the amount of \$500.00 if a turnover motion is necessary.

EXHIBIT

"A"

If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,



Patti J. Sullivan
Trustee in Bankruptcy

PJS:jk

Encl.

cc: Angie Anderson

EXHIBIT

"A"

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: ANDERSON, ANGIE

Debtor.

Chapter 7
BKY CASE NO. 04-31600

ORDER

At St. Paul, Minnesota, June 3, 2004.

This bankruptcy case came before the Court on objection by the trustee to certain claimed exempt property by the Debtor. Appearances were noted on the record. Based on the objection, argument of counsel and the files, records and proceedings herein

IT IS HEREBY ORDERED: that the Trustee's Objection to Claimed Exempt Property is sustained. Debtor's interest in the following property is not exempt:

IRA at Wells Fargo valued at \$2,000.00

BY THE COURT

/e/ Dennis D. O'Brien

Dennis D. O'Brien
Judge Of U.S. Bankruptcy Court

Dated: June 3, 2004

NOTICE OF ELECTRONIC ENTRY AND
FILING ORDER OR JUDGMENT
Filed and Docket Entry made on 06/03/04
Lori A. Vosejka, Acting Clerk, BY DLR

EXHIBIT

" A "

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: ANDERSON, ANGIE

Chapter 7
BKY CASE NO. 04-31600

Debtor.

TRUSTEE'S MEMORANDUM OF FACTS AND LAW
IN SUPPORT OF MOTION FOR TURNOVER
OF PROPERTY AND INFORMATION

Patti J. Sullivan, Chapter 7 Trustee, submits the following Memorandum of Facts and Law in Support of Motion for Turnover in the above-captioned, and as grounds therefore would respectfully show the Court:

FACTS

1. This Chapter 7 case was filed on March 17, 2004, and is pending before this Court.
2. Patti J. Sullivan, was appointed as Chapter 7 Trustee on March 18, 2004.
3. The Trustee made demand upon the debtor for turnover of information needed to administer the bankruptcy case on April 29, 2004, June 8, 2004, and September 15, 2004, as shown in Exhibit "A" (attached) to the instant motion, and incorporated therein.
4. The debtor failed to supply necessary information to the Trustee in response to the turnover demand.
5. The debtor continues to withhold information necessary to conclude administration of the bankruptcy case.

DISCUSSION

1. Turnover of Information.

Bankruptcy debtors receive a substantial benefit when relieved of personal liability for repayment of unsecured obligations through discharge. In achieving a balance between the rights of debtors and their creditors, Congress has determined that debtors have an affirmative duty to turn over information necessary to a complete administration of the bankruptcy case.

Sections 521(3) and (4) of the Bankruptcy Code provide in pertinent part,

[t]he debtor shall . . .

(3) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(4) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under Section 344 of this title;

. . . .

The law interpreting the above sections of the Code is well settled concerning a debtor's affirmative obligation to cooperate with the trustee and to supply necessary information for case administration. See: In re: Lange, 110 B.R. 907, 909 (Bankr. D. Minn 1990); In re: Bently, 120 B.R. 712, 715 (Bankr. S.D.N.Y. 1990); and In re: Ridley, 115 B.R. 731, 736 (Bankr. D. Mass. 1990).

Due to the debtor's failure to supply necessary information, administration of this bankruptcy case has been unduly delayed. The Trustee is entitled to an Order requiring that the debtor provides the following information: (1) Wells Fargo Bank statements for the time period covering 12/17/03 through 3/17/04 along with a check for the funds on deposit on March 17, 2004; (2) A copy of 2003 Minnesota property tax return or written confirmation that the debtor is not eligible for a 2003 Minnesota property tax refund; (3) Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004; (4) IRA statement showing the balance on 3/17/04 along with turning over the funds in the IRA account; and (5) Copies of 2003 Federal and State tax returns.

Forfeiture of Discharge.

Under 11 U.S.C. §727 (a)(6)(A), the Code provides that if debtor refuses to comply with court orders, discharge of debts may be withheld. In this case, the Trustee requests that if the Trustee's motion is granted, the terms of the Order be applicable under 11 U.S.C. §727 (a)(6)(A) so that the debtor will have an additional incentive to perform in a timely manner.

Based upon the foregoing, the Chapter 7 Trustee is entitled to an Order requiring that the debtor turnover non-exempt funds, if any, and information requested in Exhibit "A" attached to the Motion so that she may conclude administration of the bankruptcy estate. To expedite resolution of this matter, the Trustee requests that the Order be designated a lawful Order pursuant to 11 U.S.C. §727 (a)(6)(A). The Trustee also requests an award of attorney's fees in the amount of \$500.00 for having to bring on this motion.

Dated this 13th day of October, 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In the Matter of:

ANDERSON, ANGIE

BKY NO. 04-31600

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Joeline Kissinger, declare under penalty of perjury that on the 13th day of October 2004, I mailed a copy of the attached Notice of Hearing and Motion for Turnover of Property and Information of the Estate, Trustee's Memorandum of Facts and Law in Support of Motion for Turnover of Property and Information of the Estate, and Proposed Order by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

David Gronbeck, Esq.
Law Offices of David Gronbeck
120 South Sixth Street
Suite 1100
Minneapolis, MN 55402

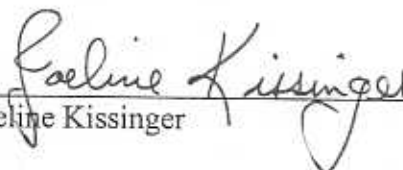
United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Angie Anderson
4405 Braddock Trail
Eagan, MN 55123-1929

James A. Geske, Esq.
7650 Currell Blvd., Ste. 300
Woodbury, MN 55125

J. Ward Holliday & Associates PC
501 Elm Street, Suite 400, LB13
Dallas, TX 75202

Executed on this 13th day of October 2004.


Joeline Kissinger

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: ANDERSON, ANGIE

Chapter 7
BKY CASE NO. 04-31600

Debtor.

ORDER

The above captioned matter came before the Court on November 3, 2004, on motion by the Chapter 7 Trustee Patti J. Sullivan in this case, seeking an order requiring the debtor to turnover property and information of the estate.

Patti J. Sullivan appeared for the Trustee. Other appearances are noted in the record.

The Court made its findings of fact and conclusions of law on the record pursuant to Rule 52 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7052.

Based upon the files and records, and arguments of counsel,

IT IS HEREBY ORDERED:

1. That the debtor shall turn over to the Trustee the following information: (1) Wells Fargo Bank statements for the time period covering 12/17/03 through 3/17/04 along with a check for the funds on deposit on March 17, 2004; (2) A copy of 2003 Minnesota property tax return or written confirmation that the debtor is not eligible for a 2003 Minnesota property tax refund; (3) Copies of the tax refund checks or confirmation that the 2003 refunds were received in February 2004; (4) IRA statement showing the balance on 3/17/04 along with turning over the funds in the IRA account; and (5) Copies of 2003 Federal and State tax returns; and (6) \$500.00 in legal fees and costs and disbursements incurred in bringing on this motion within ten (10) days of the entry of an Order granting the trustee's motion.
2. That this Order shall constitute a lawful Order within the meaning of 11 U.S.C. §727 (a)(6)(A) for purposes of discharge revocation should the debtor fail to comply with its terms in a timely manner.

Dated this ____ day of _____, 2004.

DENNIS D. O'BRIEN
UNITED STATES BANKRUPTCY JUDGE